

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD JANUARY 15, 2003
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on January 15, 2003, at AZ POST, 2643 E. University Drive, Phoenix, Arizona.

Members Present:

- Chairman James Garcia
- Assistant Chief Jack Harris (representing Chief Hurtt)
- Acting Director Charles Ryan
- Ms. Lisa Flores
- Chief Jerry Sheridan
- Ms. Laura Reckart (representing Attorney General Goddard)
- Assistant Director Rod Covey/Director Dennis Garrett
- Sgt. Gary Eisenga
- Sheriff Gary Butler
- Deputy Tamatha Villar
- Chief Joe Vernier

Members Absent:

- Attorney General Terry Goddard
- Chief Harold Hurtt
- Sheriff Clarence Dupnik
- Dr. Michael Polakowski

Staff in Attendance:

- Tom Hammarstrom
- Lyle Mann
- Lynn Larson
- Colin Peabody
- Gary Maschner
- Steve Jacobs
- Ted Brandon
- Marie Dryer
- Carol Muskus
- Lois Sherlock

Counsel for Board in Attendance:
Diana Stabler, Asst. A.G.

Guests in Attendance:

Daniel Christl, Assistant Attorney General
Dean Nyhart, AZ DPS
Sam Weiss, CARLOTA
Robert Oberosler, Yuma County Sheriff's Office
Rick W. Hanson, Yuma County Sheriff's Office
Bill Richards, SALETC
Tim Hughes, SALETC
Brett Klein, SALETC
Brian Potter, Chandler P.D.
Bob Warner, Apache Junction P.D.
Dan Scott, Apache Junction P.D.
Rick Colwell, Yuma P.D.
John Nozar, Yuma P.D.
Brett Denton
Karen Kantstrunk
Joe Cappelli, NARTA
Heather Denton
Shaunna Lee, Glendale P.D.
Brian Busko
John Corder, Show Low P.D.
Jon Heiden, AZ Police Corps
Stephen MacKinnon, Avondale P.D.
Crystal Schriver, City of Avondale
Tom Ruggles, LETA – AWC
Charles Summers, Maricopa Community College District
Wendy Ashwell
Luis Martinez, Gila River
Frank Valentine, Sahuarita
Charles Loftus, ASU P.D.

A. CALL TO ORDER

Chairman Garcia called the meeting to order at 1:35 p.m.

B. INTRODUCTIONS

Tom Hammarstrom introduced the newly appointed members of the Board: Ms. Lisa Flores, Sheriff Gary Butler, Deputy Tamatha Villar and Chief Joe Vernier. Tom also welcomed Acting Director Charles Ryan from Department of Corrections and Assistant Chief Jack Harris from the Phoenix Police Department.

Tom presented Chief John Corder of the Show Low Police Department with a plaque in appreciation for his outstanding service to the Arizona law enforcement community while serving as a member of the Arizona Peace Officer Standards and Training Board.

C. CONSENT AGENDA

Approved unanimously, motion made by Sheriff Butler, seconded by Sgt. Eisenga.

1. Minutes of the meeting held on November 20, 2002, were approved as written.
2. Income and Expense Statement – November 2002.

Funds as of November 1, 2002	\$ 896,322.54
CJEF Revenue	398,114.98
Expenditures/Encumbrances	(408,723.44)
Balance for November 30, 2002	\$ 885,714.08

3. The next scheduled Executive Session in accordance with A.R.S. §38-431.03(A)(1), (A)(2), (A)(3) or (A)(4) is Wednesday, March 19, 2003, 1:00 p.m. at the Windemere Hotel, 2047 S. Highway 92, Sierra Vista, AZ.
4. The next scheduled Regular Meeting is Wednesday, March 19, 2003, 1:30 p.m. at the Windemere Hotel, 2047 S. Highway 92, Sierra Vista, AZ
5. Ministerial Actions
 - a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Ryan B. Bair
 Michael J. Butler
 Mark E. Deterding
 Clint A. Hill
 Russell J. Huber
 Joseph J. Partridge
 William B. Pribil
 David T. Sargent
 Jefferson G. Taylor
 John B. Teeter

Yavapai County Sheriff's Office
 Maricopa County Attorney's Ofc.
 Maricopa Community College Dist.
 Flagstaff Police Department
 Pinal County Attorney's Office
 Maricopa Community College Dist.
 Coconino County Sheriff's Office
 Pinetop-Lakeside Police Dept.
 Avondale Police Department
 Gila County Sheriff's Office

Chad M. Waltz
Jonathan L. Warshaw
Charles W. Wynn

Cochise County Sheriff's Office
Phoenix Police Department
Chino Valley Police Department

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.
- c. Training Program Approvals: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were approved as requested. LIST ATTACHED TO MINUTES.
- d. Decertification Case Status Report Updates: As of December 24, 2002, the Certification and Standards Unit had 94 active decertification cases in various stages of the process. Nine cases are ready for initial presentation, 37 cases require further investigation, 5 cases are pending service of or response to a Notice of Complaint or Decision, 3 cases are pending hearing, 11 cases are ready to present for final action, and 29 cases are pending outside activity, i.e., a criminal trial or civil service hearing.

D. REGULAR AGENDA

1. Petition of the AZ POST Drug Experimentation Rule by the Avondale Police Department for Applicant Gary J. Kouba, Case No. 02-136C. The Avondale Police Department has petitioned the Board for a determination that the marijuana usage by Gary J. Kouba was experimental. Applicant Gary Kouba, age 44, admits to using marijuana 30 times or less in his life, with the last usage occurring in 1979 or 1980 at age 23. His total usage exceeds the experimentation rule by 10 uses or less, however, his usage after age 21 exceeds the experimentation rule by 21. The Board considered comments by Chief MacKinnon of the Avondale Police Department. Chief Sheridan made a motion to deny the petition for a determination that the pre-employment marijuana usage by Gary J. Kouba was experimental, seconded by Sheriff Butler. Factors of experimental use were discussed by the Board. The motion was defeated by a 5 to 2 vote. Ms. Flores made a motion to grant the petition for a determination that the pre-employment marijuana usage by Gary J. Kouba was experimental, seconded by Sgt. Eisenga, motion carried by a vote of 5 to 2.
2. Petition of the AZ POST Drug Experimentation Rule by the Avondale Police Department for Applicant Paul R. Hermann, Case No. 02-137C. The Avondale Police Department has petitioned the Board for

a determination that the marijuana usage by Paul R. Hermann was experimental. Applicant Paul R. Hermann, age 41, admits to using marijuana 30 times or less in his life, with the last usage occurring in 1983 at the age of 22. His usage exceeds the experimentation rule by 10 uses or less. The Board considered comments from Chief MacKinnon from the Avondale Police Department. Chief Sheridan questioned staff about the original polygraph interview usage numbers, however, as has occurred in the past, it was determined that the format of the questions led to a higher admission of a number of usage than actually occurred. Further investigation confirmed that the individual had limited experimental use. Ms. Flores made a motion to grant the petition for a determination that the pre-employment marijuana usage by Paul R. Hermann was experimental, seconded by Assistant Director Covey, motion carried.

E. REPORTS

1. AZ POST

a. Special Projects

Tom Hammarstrom reported that Chairman Garcia has made the following appointments to the Rules Revision Advisory Group and the Finance Advisory Group:

Rules Revision Advisory Group

1. Director Gerald Richard, Phoenix Police Dept. (Chairman)
2. Chief Deputy Dave Hendershott, MCSO
3. Ms. Beverly Ginn, Tucson Police Dept.
4. Assistant Director Ron Zuniga, Arizona DOC
5. Chief Anthony Daykin, U of A Police Dept.
6. Chief Luis Martinez, Gila River Police Dept.
7. Sheriff John Armer, Gila County Sheriff's Office
8. Chief Terry Ringey, Pinetop Lakeside Police Dept.
9. Dr. Michael Polakowski, U of A, POST Board member

Finance Advisory Group

1. Sheriff Gary Butler, Navajo County Sheriff's Office, POST Board Member (Chairman)
2. Sgt. Gary Eisenga, Cottonwood Police Dept, POST Board member
3. Mr. Rod Covey, AZ DPS
4. Chief Richard Miranda, Tucson Police Dept.
5. Chief W. D. Robinson, Yuma Police Dept.

6. Chief Bobby Harris, Chandler Police Dept.
7. Assistant Chief Jack Harris, Phoenix Police Dept.

Lyle Mann reported that staff has ordered a full set of the new rules which went into effect January 11, 2003. The set includes all of the forms that support the new rules. Copies of the rules will be sent out to all of the agencies.

b. Legislative Update

Lyle Mann reported that the people that supported the flag bill last year will not initiate a bill this year for flags. Staff has not seen any bills that directly affect AZ POST at this time.

2. BASIC TRAINING

Mr. Lynn Larson reported on the model lesson plan project and the pilot tests for the basic academies. 81% of the model lesson plans have been completed and distributed to the academies. 92% of the 2,115 test items have also been completed and validated by Dr. Tom Haladyna. The pilot test project has been running for 20 months. We have tested 1284 cadets at nine separate academies, each one of the tests has three pieces to it, and so we have given 3852 individual tests at a total of 270 failures, which is only a 7% failure rate. We have yet to implement 100% of the model lesson plans, and we have yet to distribute the completed list of test items for the academies to build their weekly tests from. When the model lesson plans are fully implemented, all of the sample test items will be sent to the academies and the academies will build an 8 hour testing review into their schedules. When this happens, we expect a dramatic reduction of the 7% failure rate.

SALETC – Captain Bill Richards introduced two new members to the team: Lt. Tim Hughes, Pima County Sheriff's Department, Basic Training, and Lt. Brett Klein, Tucson Police Department, Advanced Officer Training.

CARLOTA – Sam Weiss reported that CARLOTA has doubled the graduates from the previous year, added many new agencies that had not used CARLOTA in the past, and they are looking forward to another good year. The driving track is open, and CARLOTA and a number of agencies have been using the track. With the help and guidance of our agency heads, chiefs and sheriffs, we are working on a project right now that will increase the CARLOTA program by one month – a thirty-day increase. If everything goes as planned, this will become effective in August.

3. POLICE CORPS

Director Jon Heiden reported that the Arizona Police Corps continues to make progress. They are waiting to hear from the Department of Justice as far as their complete funding for 2003 and part of 2004 is concerned. They have been approved through April 2003, and they are just waiting for Congress to approve the budget. They have also been approved to send up to 10 cadets to the Regional Training Center in Salt Lake City, UT. Because of the funding issues, they have had to look at other options, so Arizona Police Corps has joined with Nevada and Utah to present a Police Corps Regional Training Center in Salt Lake City, UT. After the cadets are trained in Utah for 20 weeks, they will come back to Arizona for two weeks and receive information they need to take the POST waiver test. Officer Clint Hill, their last cadet, passed the waiver test and is now in his third phase of the FTO program with the Flagstaff Police Department. According to Chief McCann, Officer Hill is doing very well. Mr. Heiden expressed appreciation for the continual support from the Board and POST staff.

Lyle Mann commended Director Heiden on the outstanding work he has accomplished with the Police Corps, in particular with going to Washington D.C. and persuading continuance of the Arizona program.

4. DEPARTMENT OF CORRECTIONS

Acting Director Charles Ryan stated that the Department of Corrections is approaching 30,000 inmates in the prison system. For the first time in the history of the state, they are now contracting inmates in an out-of-state facility in Texas. They are in need of 1,300 correctional officers.

5. ARIZONA REGIONAL COMMUNITY POLICING INSTITUTE

No report.

F. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Brian D. Busko – Gilbert Police Department. The Board considered comments from Assistant Attorney General Diana Stabler and Mr. Busko. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (certification suspended for three months, April 26, 2002, to July 25, 2002), seconded by Ms. Flores, motion carried unanimously.

Case #2 – Brett L. Denton – Chandler Police Department. The Board considered comments from Assistant Attorney General Diana Stabler, Brett Denton, Heather Denton and Brian Potter. Director Garrett made a motion to adopt the Findings of Facts and Conclusions of Law and revoke certification, seconded by Chief Sheridan, motion carried unanimously.

Case #3 – Ronald T. Eurquhart, Jr. – Scottsdale Police Department – Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment), seconded by Sgt. Eisenga, motion carried unanimously.

#4 – Leroy J. Holcombe, Marana Police Department – Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (six month suspension, from May 30, 2002, and attend sexual harassment training as directed by a hiring agency), seconded by Sgt. Eisenga, motion carried unanimously.

#5 – Shaunna K. Lee – Glendale Police Department – The Board considered comments from Assistant Attorney General Diana Stabler and Shaunna K. Lee. Chief Sheridan made a motion adopt the Consent Agreement, Order and Decision, delete #1 Stipulated Findings of Fact, and take no action, seconded by Sgt. Eisenga, motion carried unanimously.

#6 – Anthony M. Oliver – Yuma County Sheriff's Office – Ms. Flores made a motion to dismiss the complaint with an RF designation in the POST files, seconded by Ms. Reckart, motion carried unanimously.

#7 – Johnny Salas – Pinal County Sheriff's Office – The Board considered comments from Assistant Attorney General Dan Christl. This matter was in the middle of a hearing at OAH when Bertram Polis, Mr. Salas's attorney, offered to voluntarily relinquish certification and vacate the hearing. The administrative law judge did vacate the hearing. Mr. Christl sent a standard consent agreement for voluntary relinquishment to Mr. Polis, who returned it signed with substantial changes. The State did not agree to the changes, in particular, deleting the provision that the relinquishment be permanent. Director Garrett made a motion to reject the altered Consent Agreement, Decision and Order offered by Mr. Polis, seconded by Sgt. Eisenga, motion carried unanimously. Director Garrett made a further motion for staff to offer the standard Consent Agreement, Decision and Order for voluntary relinquishment to Mr. Salas, seconded by Chief Sheridan, motion carried unanimously. Clarifying questions revealed that the motion, second and vote intend that the standard agreement is adopted, effective the date all the parties sign, and there is no need to return to the Board for additional action if Mr. Salas finds the standard terms acceptable.

#8 – Joseph W. Schultz – formerly with Scottsdale Police Department – Director Garrett made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Sheriff Butler, motion carried unanimously.

#9 – Hondo L. Sloan – Gila River Police Department – The Board considered comments from Assistant Attorney General Dan Christl. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Ms. Reckart, motion carried unanimously. Chief Sheridan made a motion to revoke certification, seconded by Sheriff Butler, motion carried unanimously.

G. CALL TO THE PUBLIC

None received.

H. ADJOURN

Chairman Garcia adjourned the meeting at 2:55 p.m.

Dated – January 16, 2003

Lois Sherlock, Recording Secretary

MINUTES APPROVED:

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